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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 February 1990, at 3 p.m.

Chairman: Mr. BADAWI EL SHEIKH

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The meeting was called to order at 3.20 p.m.

FORMULATION OF SUGGESTIONS AND RECOMMENDATIONS OF A GENERAL NATURE BASED ON THE CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES TO THE COVENANT AND BY THE SPECIALIZED AGENCIES (COUNCIL RESOLUTION 1985/17) (continued)

Draft general comment No. 2 (1990) on international technical assistance measures (article 22)

1. The CHAIRMAN invited the Committee to consider the text of draft general comment No. 2, which had been circulated in all languages, with a view to adopting it paragraph by paragraph.

Paragraph 1

2. Paragraph 1 was adopted.

Paragraph 2

3. Ms. TAYA said that UNDP should be mentioned in addition to the other organizations listed in the last sentence.

4. Mr. SIMMA said that Ms. Taya's suggestion could be accommodated by replacing the words "other bodies as diverse as UNICEF" by "other bodies such as UNDP, UNICEF". The remainder of the sentence would be unchanged. He did not think the phrase "as diverse as" contributed anything to the text.

5. Paragraph 2, as amended, was adopted.

Paragraph 3

6. Paragraph 3 was adopted.

Paragraph 4

7. Mrs. JIMENEZ BUTRAGUEÑO said, with reference to the subject-matter of the paragraph under consideration, that it would have been helpful for representatives of the World Health Organization to attend more of the Committee's meetings in view of the close links between the concerns of that Organization and those of the Committee, and the frequent references made to WHO reports in the course of the discussions.

8. The CHAIRMAN said that Mrs. Jiménez Butragueño's comment was duly noted.

9. Mr. SIMMA said that the whole of paragraph 4 was, in his view, of marginal import, but that if the Committee wished to retain it, the last sentence could not in any case be allowed to stand. He recalled that the contribution of the representative of the Food and Agriculture Organization to the discussion during the third session had amounted to little more than a rather stubborn defence of FAO's approach as opposed to that of the Committee. He therefore proposed the deletion of the last sentence.

10. Paragraph 4, as amended, was adopted.

Paragraph 5

11. Paragraph 5 was adopted.

Paragraph 6

12. Mr. SIMMA proposed that, in the first sentence, the word "interrelated" should be substituted for "interdependent", since the notion of interdependence had acquired political overtones, and a non-controversial term might therefore be preferable. Moreover, the principle that the two sets of rights were interdependent might be invoked in order to excuse the non-implementation of civil and political rights on the grounds of a lack of available economic resources.

13. Mr. KONATE said that the concept of the indivisibility and interdependence of civil and political rights on the one hand, and economic, social and cultural rights on the other, had been accepted internationally as early as 1968, when the principle had been affirmed by the International Conference on Human Rights in its Proclamation of Teheran. The phrase "indivisible and interdependent" was not controversial and should thus be retained.

14. Mr. KOUZNETSOV, Mr. ALVAREZ VITA and Mr. MARCHAN ROMERO said that they agreed with the previous speaker.

15. Mr. ALSTON said that, while he noted that some recent resolutions adopted by the Commission on Human Rights had used the term "interrelated" rather than "interdependent", the expression "indivisible and interdependent" was well established and hallowed by usage. Any concern felt by Mr. Simma at the word "interdependent" should in any case be dispelled by what was stated in the rest of the paragraph, which made it clear that in no case should one set of rights be used to evade responsibility for implementing the other.

16. After a discussion in which Mrs. JIMENEZ BUTRAGUEÑO, Mr. SIMMA, Mr. KOUZNETSOV, Mr. ALVAREZ VITA, Mr. FOFANA and Mr. NENEMAN took part, Mr. ALSTON suggested that Mr. Simma's concern might be met by leaving the first two sentences as they stood, and then changing the wording of the third sentence to read: "This means that efforts to promote one set of rights should also take full account of the other."

17. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt paragraph 6 as amended by Mr. Alston.

18. Paragraph 6, as amended, was adopted.

Paragraph 7

19. Mr. KONATE, supported by Mr. TEXIER, said that the first sentence of the French version was unclear. The word "aucune" should be replaced by "une" and the words "considéré a priori" by "présumée".

20. After an exchange of views, Mr. SIMMA said that the first sentence of the English text was also somewhat confusing. He proposed the following wording: "The second principle of general relevance is that development co-operation activities do not automatically contribute to the promotion of respect for economic, social and cultural rights."

21. Paragraph 7, as amended, was adopted.

Paragraph 8

22. Mr. KONATE proposed deleting the words "which is unhelpful" at the end of the first sentence.

23. Mr. KONATE proposed that in the French version of subparagraph (d), the word "respectés" should be replaced by the words "dûment pris en compte".

24. Mr. SIMMA noted that Mr. Konate's proposal concerning subparagraph (d) brought the French text more into line with the English text. He proposed that the word "duly" should be added before the words "taken into account" in the first sentence of the English version.

25. Paragraph 8, as amended, was adopted.

Paragraph 9

26. Mr. SIMMA proposed that, in the second sentence, the phrase "these will often involve a major element of austerity" should be replaced by "these will frequently involve a major element of austerity".

27. Mrs. JIMENEZ BUTRAGUEÑO proposed that in the Spanish text, the word "elemento" in the second sentence should be replaced by the word "factor".

28. Mr. KONATE proposed that the phrase "to the maximum extent possible" in the fourth sentence should be deleted.

29. Mr. ALSTON noted that there was a typographical error in the fifth sentence. The phrase "adjustment with a human force" should read "adjustment with a human face". He wondered whether the words "the human dimension of development", which was another United Nations expression conveying the same idea, should not be added. The entire phrase would then read, "'adjustment with a human face' or 'the human dimension of development'".

30. Mr. SIMMA said that, Mr. Alston's suggestion raised a problem of logic. "Adjustment with a human face" was in keeping with the word "approach", but the idea of a "dimension" was not.

31. The CHAIRMAN suggested that it should be left to Mr. Alston to find the appropriate form of words.

32. Paragraph 9, as amended, was adopted.

Paragraph 10

33. Mr. SIMMA proposed that the word "important" in the first line should be deleted.

34. Paragraph 10, as amended, was adopted.

35. Draft general comment No. 2 (1990) as a whole, as amended, was adopted.

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REPORT OF THE COMMITTEE TO THE ECONOMIC AND SOCIAL COUNCIL (agenda item 9)

Document E/C.12/1990/CRP.1/Add.1

36. The CHAIRMAN asked Mr. Kouznetsov whether he was prepared to consider the document in English as the Russian text was not yet available.

37. Mr. KOUZNETSOV agreed.

38. The CHAIRMAN said the idea of the document, which contained an overview of the Committee's present working methods, was to assist the Economic and Social Council and other interested parties to follow the way in which the Committee had been handling country reports and preparing its recommendations.

Paragraph 1

39. Mr. TEXIER pointed out that in the French text the reference to reporting in conjunction with the phrase "new five-yearly periodicity" had been omitted.

40. Mr. SIMMA observed that in any case the phrase was professional jargon, not readily intelligible to the ordinary reader.

41. Mr. ALSTON, Rapporteur, proposed that the phrase "introduction of a new five-yearly reporting periodicity" should be replaced by "introduction of the system which requires a single global report to be submitted every five years".

42. Paragraph 1, as amended, was adopted.

Paragraphs 2 and 3

43. Paragraphs 2 and 3 were adopted.

Paragraph 4

44. Mr. ALSTON, Rapporteur, said that the beginning of the second sentence in the English text should read: "In paragraph 10 of its resolution 1988/4 the Council authorized the establishment ...".

45. Mrs. JIMENEZ BUTRAGUEÑO said the Spanish text of that sentence, which erroneously read "el Comité autorizó al Comité", should also be corrected.

46. Mr. NENEMAN asked whether in the first sentence of the paragraph the phrase "prior to" should not be replaced by "some time before".

47. Mr. ALSTON, Rapporteur, said that the Committee's views on the timing of meetings of the pre-sessional Working Group were given adequate coverage in paragraph 10.

48. Paragraph 4, as amended, was adopted.

Paragraphs 5 and 6

49. Paragraphs 5 and 6 were adopted.

Paragraph 7

50. Mr. TEXIER said that in the first sentence, he did not think that the phrase "on each occasion" was felicitous.

51. Mr. ALSTON, Rapporteur, suggested that it might be replaced by "at each of its sessions".

52. Mr. SIMMA pointed out that in fact the Working Group did not decide on the allocation of reports at its sessions but prior to them.

53. Mr. TEXIER suggested that the phrase should be deleted.

54. Paragraph 7, as amended, was adopted.

Paragraph 8

55. Mr. SIMMA suggested that the phrase "in future" at the end of the first line should be deleted, as reflecting badly on the efficiency of the work to date of the pre-sessional Working Group.

56. Paragraph 8, as amended, was adopted.

Paragraph 9

57. Paragraph 9 was adopted.

Paragraph 10

58. Mr. SIMMA suggested that in the first sentence the phrase "relevant capital" should be replaced by "capital concerned".

59. Mr. ALVAREZ VITA pointed out that in the Spanish text the phrase "y preferiblemente dos meses", in the first sentence was ambiguous: the text should read "o preferiblemente dos meses".

60. Mr. WIMER ZAMBRANO supported by Mr. SIMMA, said that the reference in brackets to air fares made in the second sentence was unnecessary. It was true that the Committee must be moderate in its claims on United Nations funds but in the case under consideration, he felt that it was being too defensive.

61. Mr. ALSTON, Rapporteur, said that the reason why the question of air fares had been specifically mentioned was that, since the Council had already authorized the pre-sessional Working Group itself to meet, the only additional expense involved would be that of travel. He thought that it was always judicious to make clear to the Economic and Social Council that the Committee was aware of the financial implications of a proposal. Furthermore, when the Committee had made its original proposal in 1989, with the suggestion that the pre-sessional Working Group should meet considerably ahead of the Committees session, that recommendation had not been accepted because of the extra financial implications, although in the Committee's view they were relatively small.

62. Mr. KONATE said the paragraph was not correctly oriented. The fact was that the States parties themselves were dissatisfied with current arrangements: they would prefer to receive the lists of questions in good time so as to be able to prepare their replies. It was for that reason that the Committee was reiterating its request. It should be remembered that such States were members of the Economic and Social Council.

63. Mr. ALSTON, Rapporteur, proposed the insertion, before the second sentence in paragraph 10, of an additional sentence to read: "In particular, that would clearly be responsive to the concerns expressed at recent sessions by a number of States parties". He accepted Mr. Wimer Zambrano's proposal that the phrase in brackets in the last sentence should be deleted.

64. Paragraph 10, as amended, was adopted.

Paragraph 11

65. Mr. SIMMA said he wished to make two points about the second sentence of paragraph 11: the first was that to the best of his recollection the pre-sessional Working Group had never discussed the most appropriate allocation of time for consideration of each State report. The second point was that the sentence as a whole was awkwardly drafted.

66. Mr. ALSTON, Rapporteur, said that the pre-sessional Working Group had indeed discussed the allocation of time to States' reports at its first meeting before the Committee's third session. He conceded that the drafting of the second sentence could be improved and suggested that it should be amended to read: "these have included: discussing the most appropriate allocation of time ... considering the issue of transitional arrangements ... undertaking a preliminary review of the draft general guidelines; and considering the issue of how best ...".

67. It was so decided.

68. Mr. SPARSIS asked whether the paragraph should not reflect what the Working Group's recommendations or decisions had been on the issues which it had been requested to discuss.

69. Mr. ALSTON, Rapporteur, said that it was unnecessary to provide such information in the paragraph under consideration since each of the issues referred to was dealt with later on in the report.

70. Paragraph 11, as amended, was adopted.

Paragraph 12

71. Mr. ALVAREZ VITA drew attention to the expression "lapso de tiempo", which appeared twice in the Spanish version. The correct expression was simply "lapso".

72. Mrs. JIMENEZ BUTRAGUEÑO felt that, in Castil Spanish, "tiempo" would be the correct word.

73. Mr. WIMER ZAMBRANO considered that a still more appropriate word would be "oportunidad".

74. The CHAIRMAN said that the Secretariat would take account of those comments and would ensure that the Spanish and English texts were harmonized.

75. Mr. NENEMAN proposed deleting the words "subsequent to the session in question" at the end of the paragraph.

76. Paragraph 12, as amended, was adopted.

Paragraph 13

77. Mr. SIMMA pointed out that the second sentence of paragraph 13 was syntactically cumbersome.

78. The CHAIRMAN said that the Rapporteur would redraft the sentence in question.

79. Mr. NENEMAN said he was unhappy about the limitations on Government representatives implied by the penultimate sentence of the paragraph. He favoured replacing that sentence with the formulation "The representative of the State party concerned was invited to participate in this phase if he so wished."

80. Mr. ALSTON, Rapporteur, opposed Mr. Neneman's proposal. It would be most unfortunate if the entire debate with a State party were to be reopened during the third and final phase of concluding observations. All that was needed was a safety valve, to enable a State party to make brief comments if it felt that its position had been seriously misrepresented. Nor could he accept Mr. Neneman's view that the representative had a right to make observations at that point. It was for the Committee, not the State party, to determine the Committee's procedures.

81. Mr. TEXIER proposed condensing the second and third sentences of the paragraph into a single sentence, by deleting the full stop after "lendemain", and substituting the word "pour" for the words "Le but de cette operation était de". The words "qui leur avaient été" in the third sentence should also be deleted.

82. The CHAIRMAN said that the Secretariat would amend the French text accordingly, and that the Rapporteur would ensure that the English text was harmonized with the French text as amended.

83. Mr. SIMMA pointed out that, as currently worded, the penultimate sentence of paragraph 13 was ambiguous, in that it could be taken to mean that brief observations could be submitted by members, rather than by the State representative.

84. Mrs. JIMENEZ BUTRAGUEÑO said that, in the Spanish version as currently worded, the first sentence of paragraph 13 lacked clarity.

85. Mr. SPARSIS appealed to members not to assume the functions of a drafting committee. It should confine its attention to substantive issues, enabling the Rapporteur to redraft his report to take account of any such changes proposed.

86. Mr. SIMMA disagreed. In his view, the Committee was indeed engaged in a drafting exercise. If such matters were left to the Rapporteur, the problem might simply be deferred.

87. Mr. NENEMAN said that his concern was simply not to restrict the State party's representative too much. As a compromise, he proposed deleting the phrase "as an exceptional measure".

88. Mr. KONATE further proposed recasting the sentence as two sentences, and making it quite clear that it was the Committee that invited the representative of the State party to participate.

89. It was so agreed.

90. Paragraph 13, as amended, was adopted.

Paragraphs 14-19

91. Paragraphs 14-19 were adopted.

Paragraph 20

92. Mr. SIMMA proposed that the beginning of the paragraph should read "In addition, the Committee has invited selected experts ...". He also favoured replacing the word "inputs" by a more felicitous term.

93. Mr. ALVAREZ VITA suggested that the affiliation or area of expertise of the experts referred to in the paragraph should be clearly identified.

94. Paragraph 20, as amended, was adopted.

Paragraph 21

95. Paragraph 21 was adopted.

Paragraph 22

96. Mr. ALSTON, Rapporteur, said that, in the third line of the paragraph, the number of initial reports and second periodic reports examined would have to be inserted.

97. Mrs. JIMENEZ BUTRAGUEÑO said that if the penultimate sentence of the paragraph was redrafted so as to conclude with the phrase "different political, legal, socio-economic and cultural systems", the resulting order of adjectives would be more logical.

98. Paragraph 22, as amended, was adopted.

Paragraph 23

99. Mr. ALSTON, Rapporteur, responding to a comment by Mr. NENEMAN said that a reference to States that had submitted no reports whatsoever was contained in document E/C.12/1990/CRP.1/Add.12, which would be considered at the

following meeting. After discussing that addendum, the Committee might perhaps consider also inserting a remark to that effect at an appropriate point in the section devoted to general comments.

100. Paragraph 23 was adopted.

Paragraphs 24-25

101. Paragraphs 24-25 were adopted.

102. Document E/C.12/1990/CRP.1/Add.1 as a whole, as amended, was adopted.

The meeting rose at 6.05 p.m.